

**BEFORE the HEARING EXAMINER for the
CITY of SAMMAMISH**

DECISION

FILE NUMBER: PSUB2016-00515

APPLICANT: Century Communities
C/o Vicki E. Orrico
Johns Monroe Mitsunaga Koloušková, PLLC
1601 114th Avenue SE, Suite 110
Bellevue, WA 98004

TYPE OF CASE: Preliminary subdivision (*Sammamish-18*)

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: March 15, 2018

INTRODUCTION ¹

Century Communities (“Century”; fka Benchmark Communities) seeks preliminary approval of *Sammamish-18*, an 18-lot single-family residential subdivision of a 4.67 acre site, owned by the Fuentes, Heine, Jones, and Willis families, which is zoned R-8.

Century filed a Base Land Use Application on December 2, 2016. (Exhibit 5 ²) The Sammamish Department of Community Development (“Department”) deemed the application to be complete on December 22, 2016. (Exhibit 6) The Department issued a Notice of Application on January 11, 2017. (Exhibits 7; 8)

The subject property is located at the southern terminus of 230th Avenue NE.

On February 7, 2018, Arijit Chatterjee *et al.* filed an administrative “appeal” from a “decision” rendered in the *Sammamish-18* case on “March 7, 2018.” (Exhibit 33) On February 14, 2018, the Examiner issued an Order of Summary Dismissal because the “appeal” had been filed before any decision had been issued and, if the “appeal” intended to challenge approval of the *Sammamish-18* preliminary subdivision, an administrative appeal would not be the proper procedure in any event. The Examiner directed that the “appeal” be entered

¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.
² Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

into the record of the open record hearing for *Sammamish-18* so that the concerns stated therein could be addressed. (Exhibit 34)

The Sammamish Hearing Examiner (“Examiner”) viewed the subject property on March 7, 2018.

The Examiner held an open record hearing on March 7, 2018. The Department gave notice of the hearing as required by the Sammamish Municipal Code (“SMC”). (Exhibit 32)

Subsection 20.05.100(1) SMC requires that decisions on preliminary subdivision applications be issued within 120 net review days after the application is found to be complete. The open record hearing was held after the 120th net review day. (Testimony) The SMC provides two potential remedies for an untimely decision: A time extension mutually agreed upon by the City and the applicant [SMC 20.05.100(2)] or written notice from the Department explaining why the deadline was not met [SMC 20.05.100(4)]. Century chose to waive any time limit irregularities. (Testimony)

The following exhibits were entered into the hearing record during the hearing:

Exhibits 1 - 32:	As enumerated in Exhibit 1, the Departmental Staff Report
Exhibit 33:	“Appeal” filed on February 7, 2018, by Arijit Chatterjee <i>et al.</i>
Exhibit 34:	Order of Summary Dismissal, issued February 14, 2018
Exhibit 35:	Letter from Denis Churin, January 31, 2017

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner’s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. Century proposes to subdivide the subject property into 18 lots for single-family residential development. The proposal also includes two short private road tracts (Tracts A and B), two critical areas protection tracts (Tracts C and D), and a recreation and stormwater control tract (Tract E). (Exhibit 2)
2. The subject property is composed of four separate acreage parcels, each containing a single-family residence, served by 230th Avenue NE. Century has the four parcels under contract contingent upon approval of this preliminary subdivision application. (Exhibit 2, Sheet 1 of 1; and testimony)
3. Collectively the four parcels form a rectangle whose east-west dimension is approximately 334 feet and whose north-south dimension is approximately 653 feet. 230th Avenue NE exists as a “half-street” public street within a 30-foot wide right-of-way which extends southerly along the west edge

of the properties for about 450 feet, ending in a cul-de-sac, part of which lies outside of the dedicated right-of-way. (Exhibit 2, Sheet 1 of 1)

4. The subject property is fairly heavily wooded except for the immediate vicinity of the four residences and their associated yard areas. The site slopes generally from north to south with an elevation difference of about 46 feet, most of which occurs on the southern third of the site. A small portion of a large, Category II wetland (Wetland A) encumbers an area along the south property line. A small, Category III wetland (Wetland B) is located in the center of the site. A small Type Np stream (non-fish bearing, perennial) flows across the southwest corner of the site from the property to the west (*Kestrel Ridge*) and into Wetland A. (Exhibits 2, Sheet 1 of 1; 23, June 30, 2017, Critical Areas Study)
5. The subject property is bordered on the north by a single-family residential area developed on property zoned R-4 (four dwelling units per acre). To the west are two condominium developments (*Plateau 228* to the north and *Kestrel Ridge* to the south) on property zoned R-12 and R-18 (12 and 18 dwelling units per acre, respectively). The undeveloped area to the south is zoned R-12. The area to the east is a residential area zoned R-8. Further to the east is a substantial area zoned R-6 (six dwelling units per acre). (Exhibits 2, Sheet 1 of 1; 3; 23, June 30, 2017, Critical Areas Study, Figure 1)
6. The only available access to the subject property is 230th Avenue NE. The road in *Plateau 228* which terminates essentially at the cul-de-sac end of 230th Avenue NE is a private road, subject to a public use easement. Bollards prevent automotive travel between it and 230th Avenue NE. The *Plateau 228* homeowners association has declined Century's request to open its private roads for full public use. (Exhibits 2, Sheet 1 of 1; 23, June 30, 2017, Critical Areas Study, Figure 1; 29; and testimony)
7. The maximum permissible lot yield under the subject property's R-8 zoning, calculated in accordance with procedures spelled out in the SMC, is 28; the minimum allowed lot yield is 18. (Exhibit 1, p. 6, § II.2.13 and II.2.14³)
8. Century proposes to slightly widen 230th Avenue NE within the subdivision and construct a larger cul-de-sac at its southern end. All four existing residences and associated structures will be removed. Two private roads (Tracts A and B) will serve four lots each; the remaining lots will access directly onto 230th Avenue NE. The on-site wetlands and their required buffers will be protected in critical areas tracts (Tracts C and D); buffer averaging as allowed by the SMC has been proposed to somewhat normalize the boundaries of the buffers. Stormwater will be collected and, except for roof runoff, will be conveyed into an underground detention vault, above which will be developed a

³ The yield calculations in these two sections of the Departmental Staff Report differ from those in Exhibit 17. Yield calculations are, in part, dependent upon the design of the project: The area in roads has to be subtracted from gross area during the calculation. Thus, a yield calculation must be performed every time a project's design changes. The Exhibit 17 calculation was for a prior design. (Testimony)

recreation area (Tract E). Roof runoff will be conveyed to and discharged into the wetlands to preserve their hydrological support. (Exhibits 2; 22; 23; 26)

9. All proposed lots meet applicable zoning standards. (Exhibit 1)
10. The record contains evidence that appropriate provisions have been made for open space (Exhibit 2); drainage (Exhibits 2; 22; 26); streets and roads (Exhibits 2; 15; 16); potable water supply (Exhibits 2; 18; 19); sanitary wastes (Exhibits 2; 18; 19); parks and recreation (Exhibit 1); playgrounds (Exhibit 2); schools and schoolgrounds (Exhibit 1); and safe walking conditions for children who walk to school (Exhibit 28; and testimony). The plat design requires neither alleys nor other public ways (Exhibit 2); transit stops were not requested.
11. 168 significant trees were catalogued outside of critical area tracts on the subject property. (Exhibit 20) Current tree retention regulations essentially require that 25% of significant trees outside of critical areas and their buffers and all trees within such areas be retained in a development on land zoned R-8. [SMC 21A.37.250(2)] All significant trees that are removed must be replaced at specified ratios. [SMC 21A.37.280] Century proposes to retain 34 significant trees (48.5 trees with retention credits counted), which equates to 29% retention when earned retention credits are applied. 134 significant trees are proposed to be removed, triggering the replacement requirements of SMC 21A.37.280. 183 replacement trees are proposed to be planted. Most of the retained trees outside of the critical areas are located along the eastern edge of the site; most of the replacement trees will be planted within the two critical areas. (Exhibits 2, Sheets L1.01 – L2.32; 20)
12. Sammamish's State Environmental Policy Act ("SEPA") Responsible Official issued a threshold Determination of Nonsignificance ("DNS") for *Sammamish-18* on January 18, 2018. (Exhibit 13) The DNS was not appealed. (Testimony)
13. The Department's Staff Report (Exhibit 1) provides a detailed exposition of facts related to all criteria for preliminary subdivision approval. Century concurred in full in the Findings, Conclusions, and Recommended Conditions set forth in that report. (Testimony) The record contains no direct challenge to the content of that report. Therefore, the Findings and Conclusions/Analysis within the Staff Report are incorporated herein as if set forth in full with the following corrections:
 - A. Page 6, § II.2.10. The second sentence should begin "Ten (10) ..." The third sentence should end "... eight (8) interior lots." The fourth sentence should end "... four (4) interior lots." (Testimony)
 - B. Page 10, ¶ 3.2.A. The DNS was issued on January 18, 2018, not August 22, 2017. (Exhibit 13)
14. The Churin family ("Churin") submitted two written comments and also testified at the hearing. Churin lives north of the subject property at 1208 230th Avenue NE, abutting the center of Proposed

Lot 15. (See Exhibit 2, Sheet C-200 ⁴) Churin has a number of objections to *Sammamish-18*. In Exhibit 30 Churin objects to the proposed clearing of the site (and apparently any site in the City) for residential development. Churin also asserts that the site is home to several endangered species. (Exhibit 30) Century's environmental consultant has provided convincing evidence that most of the species named by Churin are not legally protected and that the natural range of the three protected species named does not include the Sammamish area. (Exhibit 31) Chapter 21A.37 SMC provides specific regulations to control clearing of sites for new development.

In Exhibit 35 Churin raises eight objections. Churin first asserts that the application was not complete when the Department said it was because not all documents required for an application to be complete were listed in the Notice of Application. (Exhibit 35) The SMC does not require that a Notice of Application list every document that was submitted by an applicant. In fact, only existing environmental documents have to be identified in the Notice of Application. [SMC 20.05.060(4)] Thus, the Notice of Application cannot be used to determine application completeness.

Second, Churin questions Century's right to apply to develop the property because it doesn't have title to the four parcels. (Exhibit 35) Each of the owners authorized Century to make the subject application on their behalf. (Exhibit 9)

Third, Churin asserts that the plat should include a recreation/play area. (Exhibit 35) The proposed plat does, in fact, include a play area above the detention vault in Tract E. (Exhibit 2, Sheets L2.02 and L2.32)

Fourth, Churin objects to the proposed tree preservation plan. In doing so, he notes that two 60-foot tall trees located on the most northerly of the four subject parcels fell across the property line onto his property, damaging fences and deck railings. He worries that cutting trees will lead to a greater probability of wind-throw in the future. He also believes that SMC 21A.37.240(2)(a) bars removal of more than four significant trees from any lot in any one year. (Exhibit 35) The proposed tree retention plan preserves trees in a solid band along the eastern side of the site, rather than having isolated trees scattered around the property, thus reducing wind-throw danger. The band of trees to be retained will not be behind the Churin residence. (Exhibit 2, Sheet L2.01) Subsection 21A.37.240(2)(a) does not apply to preliminary subdivisions. The applicable tree removal regulations for subdivisions on property zoned R-8 are contained in SMC 21A.37.250(2). Century's proposal complies with those requirements.

Fifth, Churin opposes wetland buffer averaging. (Exhibit 35) The SMC allows wetland buffer averaging. [SMC 21A.50.290(7)] While that allowance is not automatic, no evidence in this record suggests that buffer averaging should not be allowed in this case.

Sixth, Churin objects to loss of privacy. The Churin lot is higher than Proposed Lot 15; Churin will be able to look into the rear yard area. Churin wants the recreation area moved to the area of

⁴ Churin's name is misspelled on this exhibit.

Proposed Lot 15 so that there will be no houses behind the Churin house. (Exhibit 35) Century stated that it would be erecting a 6-foot tall, solid board fence along the north property line. (Testimony) The SMC does not contain privacy requirements between adjoining residential subdivisions.

Seventh, Churin believes that the additional traffic will exacerbate already adverse traffic conditions in the area, especially at the 228th Avenue NE/NE 14th Street intersection. Churin wants a number of changes made to area streets to mitigate traffic impact. (Exhibit 35) The traffic impact analysis concluded that the additional traffic generated from *Sammamish-18* will not reduce the Level of Service on any affected street (including the 228th Avenue NE/NE 14th Street intersection) below the City's established standards. (Exhibit 15) There are walkways or sidewalks from the subject property to the three public schools that students living in *Sammamish-18* will attend. (Testimony) As noted previously, connection of 230th Avenue NE to the private street system in *Plateau 228* is not possible.

Finally, Churin asserts that *Sammamish-18* will not be compatible with *Cimarron*, the development to the north in which Churin resides. (Exhibit 35) As previously noted, the *Sammamish-18* property is essentially located in a transition area between substantially different zone designations. Its eight dwelling units per acre zoning is more or less mid-way between the R-18 zone to the west and the R-4 zone to the north. (Exhibit 3) By developing only at the minimum allowed yield, Century is making *Sammamish-18* as compatible with the R-4 zoned area as it legally can.

15. A group of *Kestrel Ridge* homeowners oppose *Sammamish-18* on the grounds that they were promised that the woods across the eastern *Kestrel Ridge* property line were a permanent greenbelt. They want the proposal denied to protect their "greenbelt." (Exhibit 33; and testimony) In fact, the *Sammamish-18* property has never been a restricted greenbelt. Whoever informed the owners that the 4.67 acres next door to *Kestrel Ridge* would remain natural forever for their enjoyment greatly misinformed them. Having said that, *Sammamish-18* is preserving a band of native vegetation ranging in width from a little over 80 to over 180 feet wide across the entire southern edge of the site as a critical areas tract. No clearing will occur in that area – just as *Kestrel Ridge* apparently has a critical areas tract within its boundaries to protect the stream that flows onto the *Sammamish-18* property. Further, many of the replacement trees will be planted in that same area. (Exhibit 2, Sheets C-200 and L2.01; and testimony)
16. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK ⁵

The Examiner is legally required to decide this case within the framework created by the following principles:

⁵ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

Authority

A preliminary subdivision is a Type 3 land use application. [SMC 20.05.020, Exhibit A] A Type 3 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [SMC 20.05.020, 20.10.240, 20.10.250, and 20.10.260]

The Examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish.

[SMC 20.10.070(2)]

Review Criteria

Section 20.10.200 SMC sets forth requirements applicable to all Examiner Decisions:

When the examiner renders a decision ..., he or she shall make and enter findings of fact and conclusions from the record that support the decision, said findings and conclusions shall set forth and demonstrate the manner in which the decision ... is consistent with, carries out, and helps implement applicable state laws and regulations and the regulations, policies, objectives, and goals of the interim comprehensive plan, the development code, and other official laws, policies, and objectives of the City of Sammamish, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

Additional review criteria for preliminary subdivisions are set forth at SMC 20.10.220:

When the examiner makes a decision regarding an application for a proposed preliminary plat, the decision shall include additional findings as to whether:

(1) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

(2) The public use and interest will be served by the platting of such subdivision and dedication.

Vested Rights

Sammamish has enacted a vested rights provision.

Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

[SMC 20.05.070(1)] Therefore, this application is vested to the development regulations as they existed on December 22, 2016.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [City of Sammamish Hearing Examiner Rule of Procedure 316(a)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. Extensive, detailed conclusions regarding conformance with the criteria for approval are unnecessary given the information and analysis included in the Findings of Fact, above.
2. Section 20.10.200 SMC requires the Examiner to consider a number of items, including "the interim comprehensive plan". The Examiner's ability to use the comprehensive plan in project review is constrained by state law which states that the comprehensive plan is applicable only where specific development regulations have not been adopted: "The review of a proposed project's consistency with applicable development regulations or, in the absence of applicable regulations the adopted comprehensive plan" [RCW 36.70B.030(1)] The SMC contains "applicable development regulations" against which *Sammamish-18* has been reviewed.

The state Supreme Court addressed that provision in *Citizens v. Mount Vernon* [133 Wn.2d 861, 947 P.2d 1208 (1997), *reconsideration denied*] in which it ruled that "[RCW 36.70B.030(1)] suggests ... a comprehensive plan can be used to make a specific land use decision. Our cases hold otherwise." [at 873]

Since a comprehensive plan is a guide and not a document designed for making specific land use decisions, conflicts surrounding the appropriate use are resolved in

favor of the more specific regulations, usually zoning regulations. A specific zoning ordinance will prevail over an inconsistent comprehensive plan. If a comprehensive plan prohibits a particular use but the zoning code permits it, the use would be permitted. These rules require that conflicts between a general comprehensive plan and a specific zoning code be resolved in the zoning code's favor.

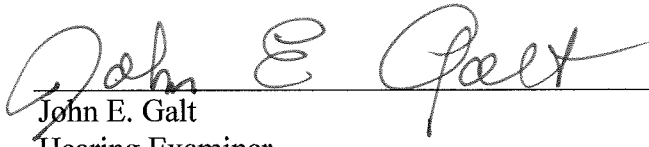
[*Mount Vernon* at 873-74, citations omitted]

3. Based upon all the evidence in the record, the Examiner concludes that *Sammamish-18* meets the considerations within SMC 20.10.200. All evidence demonstrates compliance with Comprehensive Plan policies, to the extent they can be considered, and zoning code, subdivision code, and Environmentally Critical Areas regulations. Buffer averaging is appropriate in this case.
4. Given all the evidence in the record, the Examiner concludes that *Sammamish-18* complies with the review criteria of SMC 20.10.220(1). The proposed subdivision allows development at the density expected under the Comprehensive Plan, does not thwart future development of surrounding properties, and makes appropriate provision for all items listed in that code section. As much as it might be desirable in a perfect world to have a second vehicular access in to and out of *Sammamish-18*, the reality is that the pattern of surrounding development (coupled with the extensive wetland to the south) makes any additional access impossible.
5. Given all the evidence in the record, the Examiner concludes that *Sammamish-18* will serve the public use and interest and will thus comply with the review criteria of SMC 20.10.220(2).
6. The recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment. A few minor, non-substantive structure, grammar, and/or punctuation revisions to Recommended Conditions 1, 3, 4, 8, 15, 16, and 19 will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.
7. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** preliminary subdivision approval for *Sammamish-18* **SUBJECT TO THE ATTACHED CONDITIONS.**

Decision issued March 15, 2018.


John E. Galt
Hearing Examiner

HEARING PARTICIPANTS ⁶

Vicki Orrico, unsworn counsel
Christina Haworth
Denis Churin
Barbara Rodgers

Jeremy Febus
Prayati Deshpande
David Pyle

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Examiner (in care of the City of Sammamish, ATTN: Lita Hachey, 801 228th Avenue SE, Sammamish, WA 98075) a written request for reconsideration within 10 calendar days following the issuance of this Decision in accordance with the procedures of SMC 20.10.260 and Hearing Examiner Rule of Procedure 504. Any request for reconsideration shall specify the error which forms the basis of the request. See SMC 20.10.260 and Hearing Examiner Rule of Procedure 504 for additional information and requirements regarding reconsideration.

A request for reconsideration is not a prerequisite to judicial review of this Decision. [SMC 20.10.260(3)]

NOTICE of RIGHT of JUDICIAL REVIEW

This Decision is final and conclusive subject to the right of review in Superior Court in accordance with the procedures of Chapter 36.70C RCW, the Land Use Petition Act. See Chapter 36.70C RCW and SMC 20.10.250 for additional information and requirements regarding judicial review.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

⁶ The official Parties of Record register is maintained by the City's Hearing Clerk.

CONDITIONS OF APPROVAL
SAMMAMISH-18
PSUB2016-00515

This Preliminary Subdivision is subject to compliance with all applicable provisions, requirements, and standards of the Sammamish Municipal Code, standards adopted pursuant thereto, the Standard Engineering Requirements, and the following special conditions:

General Conditions:

1. Exhibit 2 is the approved preliminary plat (and supporting plans). Revisions to approved preliminary subdivisions are subject to the provisions of SMC 19A.12.040.
2. The Plator or subsequent owner(s) shall comply with the payment of street impact fees, impact fees for park and recreational facilities, and school impact fees in accordance with SMC Chapters 14A.15, 14A.20, and 21A.105, respectively.

Site Development Permit Special Conditions:

3. 230th Avenue NE is classified as a half-street local road with 30 feet of existing right-of-way. A two-foot right-of-way dedication shall be provided along the development frontage with a public road turnaround in accordance with Public Works Standards.
4. The project shall provide safe routes to schools in accordance with the school district notification of school access from the site.
5. Individual lot flow control BMPs shall be required consistent with the 2009 King County Surface Water Design Manual (KCSWDM).
6. Drainage plans, Technical Information Reports, and analyses shall comply with the 2009 King County Surface Water Design Manual (KCSWDM), the City of Sammamish Surface Water Design Manual Addendum, the City of Sammamish Stormwater Management Comprehensive Plan, and the East Lake Sammamish Basin Plan, including adherence to the sensitive lake water quality menu and maintenance of wetland hydrology adjacent to the subdivision.
7. Illumination shall be provided on 230th Avenue NE consistent with the Interim Public Works Standards for average foot candle and uniformity for a local road. The street light design shall be approved by Public Works.

Concurrent with or Prior to Final Plat:

8. Right-of-way dedication on 230th Avenue NE shall be two feet along the plat frontage and the cul-de-sac bulb as shown on the approved plan.
9. All frontage improvements on 230th Avenue NE shall be fully installed and approved.

10. Driveways shall be completed prior to final plat approval. Any joint use driveways shall be bonded for or constructed under the Site Development permit.
11. A public stormwater easement shall be provided for access, inspection, maintenance, repair, and replacement of the detention and water quality facilities within Tract E.
12. Any offsite stormwater easements required by the stormwater design shall be recorded.
13. Offsite improvements shall be fully constructed.
14. Illumination shall be fully installed or bonded as approved by the City Engineer.

Conditions to appear on the face of the Final Plat (*italicized words verbatim*):

15. Trees retained in accordance with Chapter 21A.37 SMC shall be identified on the face of the final plat for retention. Trees shall be tagged in the field and referenced on the face of the final plat with the applicable tag number. Language to this effect shall appear on the face of the final plat:

Trees identified on the face of this plat have been retained pursuant to the provisions of Chapter 21A.37 SMC. Retained trees are subject to the tree protection standards of Chapter 21A.37 SMC. Removal of these trees is prohibited unless the tree is removed to prevent imminent danger or hazard to persons or property, and may be subject to a clearing and grading permit approved by the City of Sammamish. Trees removed subject to this provision shall be replaced in compliance with Chapter 21A.37 SMC.

16. Covenant and easement language pertaining to individual lot and tracts with flow control BMPs shall be shown on the face of the final plat. Use the following language, otherwise Public Works shall approve alternative specific language prior to final plat approval:

All individual lots and tracts having Stormwater BMPs in accordance with the City of Sammamish requirements for the use of small lot flow control are hereby granted and conveyed to the individual lot owners and the Homeowners Association respectively. Maintenance of BMPs within said lots shall be the responsibility of the individual lot owners and maintenance of the said BMPs within said tracts shall be the responsibility of the Homeowners Association.

17. BMPs shall have a recorded covenant in place prior to approval of a building permit.
18. Unless located within a recreation tract and public easements provided, all Surface Water Management Facilities required for this subdivision shall be contained within a separate tract of land and shall be dedicated to the City of Sammamish for inspection, maintenance, operation, repair, and replacement. Language to this effect shall appear on the face of the final plat.

19. The following items shall appear on the face of the final plat:

- a. Maintenance of all landscape strips along the plat roads shall be the responsibility of the Homeowners Association or adjacent property owners. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips created by the plat.*
- b. Maintenance of landscaping within Tract E, including above the stormwater vault, shall be the responsibility of the Homeowners Association or jointly shared by the owners of the development.*
- c. Individual lot flow control BMP's in accordance to the 2009 King County Surface Water Design Manual shall be provided with each single family residential building permit unless otherwise incorporated into the subdivision site development plans.*
- d. Maintenance of illumination along all local and private roads shall be the responsibility of the Homeowners Association or jointly shared by the owners of the development.*
- e. All building permits shall be subject to 2009 King County Surface Water Design Manual Appendix C to determine the best management practices for all surface water runoff. All connections of roof drains shall be constructed and approved prior to final building inspection approval.*

Prior to City Acceptance of Improvements:

20. Prior to acceptance into the Maintenance and Defect period, project close-out documents including the final acceptance construction punch list, as-builts, and final corrected Technical Information Report shall be submitted to Public Works for approval.

NOTE: All italicized conditions listed above shall appear verbatim on the face of the plat.